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SUBJECT: SPAIN'S NEW TOBACCO CONTROL LAW CLEARS FIRST HURDLE

REF: MADRID 286

1. Spain's tough new tobacco control law was approved by the nation's Council of Ministers April 22 and forwarded to the lower house of Congress, where it is expected to be approved before Spain shuts down for the summer. The law (see reftel for complete details) bans all tobacco advertising (as required by EU Directive 2003/33), prohibits smoking in public and private workplaces, and greatly limits smoking in other public places.

2. The Council of Ministers resisted union pressure to alter the draft law submitted by the Health Ministry to allow for the creation of limited and regulated smoking zones in public and private workplaces. Indeed, the Council made relatively few changes to the Health Ministry draft. The major new element in the bill sent to Congress was the delineation of proposed fines, which had been left out of the Health Ministry proposal. In this regard, the Council of Ministers disappointed many anti-tobacco activists by opting for relatively small fines.

3. The draft bill sent to Congress imposes a maximum 30 euro fine on individuals who smoke in prohibited areas. The draft sets minimum 600 euro, maximum 10,000 euro fines for establishments that permit smoking in areas where it prohibited or those that sell tobacco to minors. The most serious fines (between 10,000 and 600,000 euros) are reserved for those who violate the tobacco advertising prohibition.

4. Most observers believe the bill will be approved by Congress and become the law of the land on January 1, 2006. The former ruling People's Party (PP) has criticized the bill as "excessively restrictive" and has urged less focus on punishing current smokers and more emphasis on preventing the young from beginning to smoke.

5. COMMENT: Anti-smoking forces are pleased the government held firm on the workplace smoking ban but annoyed that the proposed fines appear low. With this law, Spain will stop being a permissive "outlier" and will join many of its EU partners in ratcheting up pressure on smokers. Of course, the law will mean little if it is not enforced, and Spain has a history of not enforcing previous efforts to restrict public smoking. The law, as drafted, will put the burden of smoking prohibition enforcement on regional/autonomous community authorities and largely limit the central government's role to enforcing the ban on tobacco advertising and sales. All said and done, the law is a good start and, for Spain, represents a revolutionary step to tackle one of the nation's key public health priorities.

6. FACTS AND FIGURES ADDENDUM: media reports of the Council of Minister's decision included some facts and figures of potential interest that were not available when reftel was prepared.

-- smoking is responsible for 50,000 deaths a year in Spain, representing 16 percent of all deaths of those over the age of 35.

-- 92,334,000,000 cigarettes were consumed in Spain in 2003, representing 2,270 cigarettes per inhabitant.

-- Spaniards spent 9,526,000 euros on tobacco in 2003, representing 234.38 euros per inhabitant.

-- the tobacco industry accounts for 59,400 "direct" jobs (18,000 in growing tobacco leaf, 9,000 in transforming leaf into tobacco products, and 32,400 in tobacco product distribution) and 30,600 "indirect" jobs (mostly employees of tobacco companies).

-- tobacco taxes contributed approximately six million